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Extrajudicial, summary or arbitrary executions

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on extrajudicial, summary or arbitrary executions, submitted by Asma Jahangir, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 17 of General Assembly resolution 53/147 of 9 December 1998.

* A/55/150.
** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 11 August 2000 so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions

I. Introduction

1. At its fifty-first session, the General Assembly, in its resolution 51/92, requested the Special Rapporteur on extrajudicial, summary or arbitrary executions to submit an interim report to it at its fifty-third session. However, as Ms. Jahangir was appointed Special Rapporteur only in August 1998, she was unfortunately not in a position to present a full report; she did, however, make an oral presentation to the General Assembly at its fifty-third session. The present report is submitted pursuant to Assembly resolution 53/147 of 9 December 1998.

2. The report covers activities undertaken from the appointment of the Special Rapporteur to 1 July 2000 and focuses on a number of issues which are of particular concern, and which in the Special Rapporteur's view require special and urgent attention. Owing to the limited space available, and in order to avoid unnecessary duplication, when appropriate reference will be made to earlier reports of the Special Rapporteur where more detailed discussions on the issues raised can be found. The Special Rapporteur regrets that during the drafting process the report had to be significantly shortened owing to last-minute changes in the instructions regarding the submission of documents to the fifty-fifth session of the Assembly. She apologizes for any possible omissions or inaccuracies in this report which may have resulted from this unforeseen development.

II. Mandate

A. Terms of reference

3. At its fifty-fourth session, the Commission on Human Rights, by its resolution 1998/68, renewed the Special Rapporteur's mandate for another three-year term. During its fifty-fifth and fifty-sixth sessions the Commission adopted resolutions 1999/35 and 2000/31, respectively. For a more detailed presentation of the terms of reference of the Special Rapporteur's mandate, reference is made to her reports to the Commission (E/CN.4/1999/39, paras. 4-5; E/CN.4/2000/3, paras. 4-5).

B. Violations of the right to life upon which the Special Rapporteur takes action

4. For a more detailed discussion of the situations in which the Special Rapporteur has acted during the present reporting period, reference is made to her reports to the Commission (E/CN.4/1999/39, para. 6; E/CN.4/2000/3, para. 6).

C. Legal framework

5. For an overview of the international standards by which the Special Rapporteur is guided in her work, reference is made to the report of her predecessor to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68). The Special Rapporteur has largely followed the methods of work developed and applied by the previous Special Rapporteur, Bacre Waly Ndiaye, which are described in his report to the Commission at its fiftieth session (E/CN.4/1994/7, paras. 13-67), as well as his subsequent reports to the Commission (E/CN.4/1995/61, paras. 9-11; E/CN.4/1996/4, paras. 11-12).

III. Activities

A. General remarks

6. The Special Rapporteur attaches great importance to cooperation and coordination with other human rights mechanisms of the Commission on Human Rights and has on numerous occasions taken joint action, including joint urgent appeals with other special rapporteurs and representatives. She welcomes the ongoing efforts at the Office of the United Nations High Commissioner for Human Rights further to coordinate the information flow and activities between the various components of the United Nations human rights programme, including the special procedures, treaty monitoring bodies, technical cooperation programmes and field presences. The Special Rapporteur would also like to express her appreciation for the support she has received from the High

Commissioner, who has shown a personal interest in the mandate and a genuine understanding for the challenges it faces.

B. Communications

7. In the discharge of her mandate, the Special Rapporteur relies to a large extent on information brought to her attention by non-governmental organizations (NGOs), Governments, individuals and intergovernmental organizations. The communications sent based on this information contain specific cases of alleged extrajudicial, summary or arbitrary executions, imminent executions of death sentences, death threats, or more general information on questions relating to the right to life. The Special Rapporteur wishes to emphasize that the communications presented in the paragraphs below are based exclusively on allegations and reports brought to her attention. Therefore, they should only be seen as approximately indicative of the occurrence of violations of the right to life in the countries under consideration. During field visits the Special Rapporteur noted that representatives of civil society in a number of countries, including journalists and lawyers, were not aware of the human rights mechanisms of the United Nations. She therefore recognizes that information received by her is sometimes limited, selective, and may not reflect all dimensions of violations of the right to life. The Special Rapporteur is also acutely aware that the figures presented below do not in any way reflect the tragedy and suffering of the victims of these violations or their families. However, some patterns and trends do emerge when studying the information received.

8. During the period August 1998-July 2000, the Special Rapporteur transmitted urgent appeals on behalf of more than 400 persons to the Governments of the following 54 countries: Argentina (2), Bahamas (3), Bolivia (1), Bosnia and Herzegovina (1), Botswana (1), Brazil (8), Burkina Faso (1), Burundi (1), Chile (3), China (9), Colombia (46), Cuba (1), Democratic Republic of the Congo (1), Dominican Republic (1), Ecuador (3), El Salvador (1), Egypt (1), Equatorial Guinea (1), Gambia (1), Germany (1), Guatemala (3), Guyana (1), Haiti (1), Honduras (3), India (2), Indonesia (9), Iran (Islamic Republic of) (7), Iraq (1), Jamaica (1), Kazakhstan (1), Mexico (8), Nepal (1), Nicaragua (1), Pakistan (3), Peru (4), Philippines (7), Russian Federation (2), South Africa (1), Sierra Leone (2), Sri Lanka (3), Sudan (2), Tajikistan (2), Trinidad and Tobago (3), Turkey (6), Uganda (1), United Arab Emirates (1), United Kingdom of Great Britain and Northern Ireland (1), United States of America (21), Uzbekistan (1), Venezuela (3), Yemen (2), Yugoslavia (2), Zambia (1) and Zimbabwe (1). She also sent two urgent appeals to the Palestinian Authority. Among the urgent appeals sent by the Special Rapporteur 36 were transmitted jointly with other mechanisms of the Commission on Human Rights: the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative on the situation of human rights in the Islamic Republic of Iran and the Representative of the Secretary-General on internally displaced persons.

9. In addition, the Special Rapporteur transmitted allegations regarding violations of the right to life of more than 1,650 individuals to the Governments of the following 62 countries: Albania, Algeria, Angola, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Bhutan, Bolivia, Brazil, Bulgaria, Burundi, Cameroon, Chile, China, Colombia, Cuba, Democratic Republic of the Congo, Ethiopia, France, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Israel, Iraq, Jamaica, Japan, Liberia, Malaysia, Mexico, Myanmar, Morocco, Nepal, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Republic of Korea, Russian Federation, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sri Lanka, Sudan, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Venezuela, Yugoslavia and Zambia. She also transmitted allegations to the Palestinian Authority and the Taliban Council.

10. During the period under review, the Governments of the following countries provided a reply to communications addressed to them during 1998 and previous years: Albania, Algeria, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Belgium, Bhutan, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Democratic Republic of the Congo, Cuba, Dominican Republic, Germany, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Kuwait, Malaysia, Mexico, Myanmar, Nepal, Nicaragua, Pakistan, Paraguay, Peru, Philippines,

Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Singapore, Spain, Sri Lanka, Sudan, Tunisia, Turkey, United Arab Emirates, United States of America, Venezuela, Yugoslavia and Zambia.

11. The Special Rapporteur wishes to take this opportunity to express her appreciation to those Governments which have provided comprehensive replies to her communications for their cooperation. She regrets that some Governments have replied only in part or on an irregular basis to her inquiries. She is further concerned that the Governments of Angola, Bangladesh, Bolivia, Botswana, Bosnia and Herzegovina, Burkina Faso, Burundi, Ecuador, El Salvador, Guinea-Bissau, Haiti, Israel, Rwanda, Sierra Leone, South Africa, Tajikistan, Thailand, Trinidad and Tobago, Uganda, Uzbekistan and Yemen did not reply to any of her communications and requests for information transmitted in the last year, nor did the Taliban Council or the Palestinian Authority. The Special Rapporteur regrets that the Government of Yemen has not replied to any communications in the last five years, and the Governments of Cambodia and Papua New Guinea have not replied to any of the communications transmitted by the Special Rapporteur in the past four years. The Governments of Rwanda and Romania have not replied to communications in the last three years.

C. Visits

12. Country visits and fact-finding missions in the field are a crucial part of the Special Rapporteur's work, as they allow her personally to gather information on site and to form her own impressions of the situation on the ground. The experience gained through these visits is also important for the Special Rapporteur in the discharge of her mandate. In the course of the last year the Special Rapporteur wrote to a number of Governments expressing her interest in visiting their countries. At the time of writing, the Governments of Turkey and Colombia had responded positively to these communications, and the Special Rapporteur looks forward to carrying out missions to these countries in the near future. Currently, the Special Rapporteur has requests pending with the Governments of Algeria, Sierra Leone, Bahrain, Uganda and the Russian Federation (Chechnya).

13. Since her appointment the Special Rapporteur has undertaken four country visits. She conducted her first mission to the former Yugoslav Republic of Macedonia from 23 to 25 May and to Albania from 25 to 28 May 1999. The main purpose of the visit was to collect first-hand information regarding the situation in Kosovo, with a view to assessing and evaluating allegations of human rights violations relevant to her mandate reported to have occurred there. It should be noted that the mission was carried out at a time when a visit to Kosovo itself was not possible, as the operations led by the North Atlantic Treaty Organization against the Federal Republic of Yugoslavia were still going on. The Special Rapporteur's observations during this mission can be found in her report to the Commission on Human Rights (E/CN.4/2000/3/Add.2). The Special Rapporteur is planning to carry out a follow-up visit to Kosovo in September 2000.

14. The Special Rapporteur visited Mexico from 12 to 24 July 1999. The main objective of the visit was to investigate and gather information about repeated allegations of extrajudicial killings, and in particular reports of massacres in the States of Chiapas and Guerrero. The Special Rapporteur's observations are presented in her mission report (E/CN.4/2000/3/Add.3).

15. From 4 to 10 November the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences conducted a joint mission to East Timor. The visit was undertaken pursuant to resolution S-4/1 adopted on 27 September 1999 by the Commission on Human Rights at its special session on the human rights situation in East Timor. The findings of the Special Rapporteurs are presented in their joint mission report submitted to the General Assembly (A/54/660).

16. The Special Rapporteur visited Nepal from 5 to 14 February 2000. The visit was mainly prompted by continuing reports of alleged extrajudicial killings of unarmed civilians in the context of the confrontation between armed groups of the Communist Party of Nepal, CPN (Maoist) and the Nepalese police. Concerns had also been expressed that the situation had the potential to deteriorate, leading to more violence and loss of life. The Special Rapporteur will report on her findings to the Commission at its fifty-seventh session.

17. At its fifty-fifth session the Commission, in its resolution 1999/56 on the situation of human rights in the Democratic Republic of the Congo, requested the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions, and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permitted, and where appropriate, a joint mission to investigate all massacres carried out in the country with a view to bringing to justice those responsible. The Special Rapporteur regrets that so far the conditions on the ground have not allowed the mechanisms concerned to carry out the mission called for by the Commission.

18. In this connection, the Special Rapporteur further wishes to recall Commission resolution 2000/58 of 25 April 2000, in which the Commission requested several of the thematic mechanisms, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, to conduct missions to Chechnya. It may be noted that the Special Rapporteur had requested an invitation to visit Chechnya in March 2000, but at the time of writing, the Government had not replied.

IV. Situations involving violations of the right to life

19. During the period under review, the Special Rapporteur transmitted communications to Governments or took other forms of action in relation to the following situations involving violations of the right to life: (a) capital punishment; (b) death threats; (c) deaths in custody; (d) deaths due to excessive use of force by law enforcement officials; (e) deaths due to attacks or killings by security forces; (f) extrajudicial killings attributed to paramilitary groups or private forces cooperating or tolerated by the State; (g) violations of the right to life during armed conflicts; (h) expulsion, refoulement or return of persons to a country or place where their lives are in danger; (i) genocide; and (j) issues relating to the rights of victims. Detailed accounts of correspondence and action taken by the Special Rapporteur in regard to these issues can be found in her reports to the Commission on Human Rights (E/CN.4/1999/39, paras. 16-33; E/CN.4/2000/3, paras. 21-34).

20. Information brought to the Special Rapporteur's attention during the period under review reveals certain trends and developments which she wishes to bring to the attention of the General Assembly. As regards death threats, the Special Rapporteur is increasingly concerned about the situation in Colombia, where human rights activists, community leaders, trade unionists and journalists continue to be particularly exposed. A growing number of allegations of death threats have also been received from Brazil, where indigenous groups, such as the Macuxi and Wapixana communities, human rights defenders and community leaders have reportedly been exposed to these abuses.

21. The Special Rapporteur is concerned that in many countries the police and security forces continue to commit grave human rights abuses, including extrajudicial executions, in a climate of impunity. Throughout the reporting period the Special Rapporteur has on repeated occasions expressed her deep concern at the abuse of force by both the Indonesian police and army while performing law enforcement duties in various locations including Jakarta, East Timor and Aceh. In 1998, the Special Rapporteur also sent several communications to the Government of Indonesia expressing her concern over the likely eruption of violence before the popular consultation in East Timor, after having been informed of the systematic abuse of force by the Indonesian police during demonstrations in Jakarta and in Dili as well as in other provincial capitals. The Special Rapporteur is also alarmed by continuing reports of Israeli soldiers having deliberately opened fire against unarmed civilians.

22. The Special Rapporteur is deeply disturbed by the increasing number of civilians, including many women and children, as well as persons *hors de combat*, killed in situations of armed conflict and internal strife as a result of deliberate attacks, the use of indiscriminate or disproportionate force, the utilization of anti-personnel mines, or the blockage of goods and services, including humanitarian aid. Particularly alarming reports have been received from the Democratic Republic of the Congo, the Russian Federation (Chechnya), the Federal Republic of Yugoslavia (Kosovo), Sri Lanka and Myanmar.

V. Issues requiring the attention of the Special Rapporteur

A. Violations of the right to life of women

23. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of women to the Governments of Chile, China, Colombia, the Dominican Republic, Guatemala, Honduras, India, Indonesia, Mexico, Myanmar, Nepal, Nicaragua, Pakistan, Peru, South Africa, Trinidad and Tobago, Turkey and the United Kingdom. In addition, the Special Rapporteur transmitted allegations of violations of the right to life of women said to have occurred in Bangladesh, Belgium, Chile, China, Colombia, the Democratic Republic of the Congo, India, Indonesia, Israel, Liberia, Myanmar, Pakistan, the Philippines, the Russian Federation, Rwanda, Sri Lanka and the Sudan. The Special Rapporteur is deeply disturbed by increasing reports of women being deliberately targeted and exposed to extreme violence, including extrajudicial killings, in the context of war or internal conflict. Particularly serious incidents have been reported from conflict areas in, inter alia, Kosovo, East Timor, the Democratic Republic of the Congo, Sierra Leone, Sri Lanka and Myanmar.

B. Violations of the right to life of minors: children in armed conflict

24. Since her appointment, the Special Rapporteur has on numerous occasions expressed her strong and categorical opposition to the use of children in armed activities. For a more detailed discussion and analysis of the issue, reference is made to the Special Rapporteur's reports to the Commission on Human Rights (E/CN.4/1999/39, paras. 71-73; E/CN.4/2000/3, paras. 37-42). While on mission in Nepal in February 2000 (see para. 16 above), the Special Rapporteur received reports of the use of children in armed activities by groups of the Communist Party of Nepal, CPN (Maoist). The Special Rapporteur is concerned that children are being enlisted by militant non-State actors to engage in violence and be indoctrinated to use violence against perceived "enemies". In many cases Governments either look away or react only once the problem gets out of hand. Neglect of child citizens, especially in conflict situations, is one root cause of this form of exploitation of children, which exposes them to extreme danger and often marks their lives forever.

25. The Special Rapporteur is alarmed by continuing and increasing reports of extrajudicial killings of street children and juveniles in Honduras. She has received information alleging that more than 300 children and youths have been murdered in Honduras since 1998. More than half of the victims were reportedly under the age of 18. There are concerns that the authorities have not taken prompt and effective action to investigate these killings or prevent further killings. The Special Rapporteur intends to follow this situation very closely in the months to come and to return to the issue in her coming reports to the Commission on Human Rights.

C. Violations of the right to life concerning refugees and internally displaced persons

26. During the period under review, the Special Rapporteur has continued to receive disturbing reports of deliberate attacks against refugees and internally displaced persons, particularly in the context of internal conflict and unrest. It appears that in many instances the direct and deliberate targeting of civilians, including the internally displaced, has become part of the tactics employed by parties involved in armed conflict. Particularly disturbing reports have been received from conflict areas such as Kosovo, Colombia, the Democratic Republic of the Congo, East Timor, Myanmar and Sri Lanka.

D. Violations of the right to life of persons exercising their right to freedom of opinion and expression

27. During the present reporting period, the Special Rapporteur sent urgent appeals or communications regarding violations of the right to life of persons exercising their right to freedom of expression, mostly journalists and participants in demonstrations, in the following countries: Bhutan, Bosnia and Herzegovina, Chile, China, Colombia, Ecuador, El Salvador, India, Indonesia, Iran (Islamic Republic of), Iraq, Mexico, Myanmar, Nepal, Nicaragua, Pakistan, Panama, Russian Federation, Senegal, Sri Lanka, Sudan, Tunisia, Turkey, Turkmenistan and Yugoslavia. In addition, the Special Rapporteur sent several appeals of

a general nature to the Government of Indonesia expressing concern over the security of participants in demonstrations and other political manifestations in all parts of the country. Most of these interventions were made jointly with the Special Rapporteur on freedom of opinion and expression.

E. The right to life and the administration of justice

28. The Special Rapporteur took action on behalf of persons involved in or related to the administration of justice in the following countries: Brazil, Colombia, Costa Rica, Dominican Republic, Guatemala, Mexico, Peru, Philippines, South Africa, Venezuela and the United Kingdom. The Special Rapporteur further sent one joint appeal with the Special Rapporteur on the independence on judges and lawyers and another with the Special Rapporteur on the question of torture to the Government of Turkey expressing concern over the security of the lawyers representing Abdulah Oçalan. It may be noted that many of the lawyers referred to above had received threats because of their work for the promotion and protection of human rights.

F. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities

29. The Special Rapporteur acted on behalf of a variety of persons considered to belong to national, ethnic, religious and/or linguistic minorities in their respective countries. Urgent actions were sent to the Governments of the following countries: Brazil, Chile, China, Colombia, Democratic Republic of the Congo, Guatemala, Honduras, Indonesia, Iran (Islamic Republic of), Iraq, Mexico, Myanmar, Nepal, Sri Lanka and Yugoslavia. One urgent action was also sent to the Taliban Council. The Special Rapporteur is increasingly disturbed by continuing reports of violations of the right to life of members of the Uighur community and Muslim leaders in the Xinjiang Autonomous Region of China. She is also concerned that members of indigenous communities in the above-mentioned Latin American countries continue to be exposed to violence and attacks, including extrajudicial killings.

G. Violations of the right to life of individuals who have cooperated with representatives of United Nations human rights bodies (reprisals)

30. During the period under review, the Special Rapporteur intervened on behalf of this category of person in Indonesia, Mexico and Peru. A more detailed description of the communications can be found in the Special Rapporteur's reports to the Commission on Human Rights (E/CN.4/1999/39, para. 49; E/CN.4/2000/3, paras. 52-53). For a more general analysis of this issue, reference is made to the report of the Secretary-General (E/CN.4/2000/101) submitted in accordance with Commission resolution 1999/16.

H. Violations of the right to life of members of sexual minorities

31. During the present reporting period, the Special Rapporteur received serious allegations of death threats or extrajudicial killings targeting members of sexual minorities. Her attention has been drawn especially to the situations in Brazil, El Salvador, Romania and Mexico where homosexual men, bisexuals and transvestites are reported to have been targeted. The Special Rapporteur is deeply concerned that in some countries homosexual relationships are still punishable by death. For a more detailed discussion of this issue, reference is made to the Special Rapporteur's reports to the Commission (E/CN.4/1999/39, paras. 76-77; E/CN.4/2000/3, paras. 54-57).

VI. Issues of special concern to the Special Rapporteur

A. Capital punishment

32. The Special Rapporteur's action in response to allegations of the right to life in connection with capital punishment is strongly guided by the principle of desirability of the abolition of the death penalty. The right to life is a basic right which is universal and absolute. While capital punishment has not yet been universally abolished under international law, its application has been tied to certain preconditions and restrictions. Various provisions of international law and resolutions of the United Nations stipulate that capital

punishment shall only be allowed as an extreme measure for the most serious crimes and only in cases where the highest standards of fair trial are observed. Under international law capital punishment shall not be applied to juvenile offenders, expectant or recent mothers, and those suffering from mental handicap or extremely limited mental capacity. The Special Rapporteur has discussed these aspects of her mandate at length in her latest report to the Commission on Human Rights (E/CN.4/2000/3, chap. V, sect. A). She hopes that similar protection would also be extended to elderly persons, pending a total abolition of the death penalty. The Special Rapporteur notes with appreciation that the Statute of the International Criminal Court and the International Tribunals for the former Yugoslavia and Rwanda are not authorized to impose the death penalty. The Special Rapporteur hopes that this will inspire domestic jurisdictions to bring their laws regarding the death penalty into line with those used in international judicial forums.

33. The Special Rapporteur is concerned that in many instances legal proceedings in relation to capital offences do not conform to the highest standards of impartiality, competence, objectivity and independence of the judiciary, in accordance with the pertinent international legal instruments. In this regard, she wishes to compliment George Ryan, Governor of Illinois, United States of America, for his moral courage in deciding to impose a moratorium on executions in the State of Illinois upon disclosure of possible flaws in the trial system. The Special Rapporteur encourages all retentionist States to impose a moratorium on executions pending an exhaustive enquiry regarding the capacity and independence of their legal systems.

34. In a number of countries the death penalty is imposed for crimes which do not fall within the category of "the most serious crimes" as stipulated in article 6, paragraph 6, of the International Covenant on Civil and Political Rights. Paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur is strongly of the opinion that these restrictions exclude the possibility of imposing death sentences for economic and other so-called victimless offences, actions relating to prevailing moral values, or activities of a religious or political nature — including acts of treason, espionage or other vaguely defined acts usually described as "crimes against the State". The Special Rapporteur further believes that the death penalty should under no circumstances be mandatory, regardless of the charges involved. The Special Rapporteur has been informed that the United Arab Emirates has passed a federal environmental protection law which, among other punishments, provides for the death penalty for those who import any banned materials or nuclear waste and dump or store such materials in any form inside the country.

35. Capital punishment for juvenile offenders is prohibited under international law. In her last report to the Commission on Human Rights (E/CN.4/2000/3), the Special Rapporteur noted that since 1990, six countries were reported to have executed persons who were under the age of 18 at the time of the crime: the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, Yemen and the United States of America. After the publication of that report, the Special Rapporteur wrote to these Governments requesting information about their current laws and practice in regard to the use of the death penalty for juvenile offenders. At the time of writing she had received no reply to these requests. However, she is pleased to note that Pakistan has promulgated a law which abolishes capital punishment for juvenile offenders who were under 18 years of age at the time the crime was committed.

36. In July 1999, the Special Rapporteur sent a questionnaire to all States which still retain the death penalty either in law or in practice. In the questionnaire the States were requested to provide information on the following issues: (a) provisions for mandatory death penalty in domestic law; (b) provisions allowing for the use of the death penalty for persons under the age of 18; (c) the number of executions of persons under the age of 18 in the last two years, or for crimes committed by persons under that age, as well as a brief description of their cases; (d) a description of the crimes for which the death penalty applies under national law. At the time of writing the following Governments had responded to the questionnaire: Antigua and Barbuda, Armenia, Barbados, Belarus, Egypt, Japan, Libyan Arab Jamahiriya, Lithuania, Malaysia, Myanmar, Oman, Rwanda, Sudan, Syrian Arab Republic, Trinidad and Tobago, Ukraine and United Arab Emirates. She is concerned that according to the government replies received, the death penalty remains mandatory in

Armenia, Barbados, Malaysia, Myanmar, Rwanda, Trinidad and Tobago, and Ukraine.

B. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

37. A clearly discernible trend in recent years is the increasing incidence of large-scale extrajudicial killings carried out by government security forces or armed groups reported to be sponsored, supported or tolerated by Governments. The Special Rapporteur transmitted allegations on behalf of more than 1,250 individuals killed by security forces, paramilitary groups or private forces to the Governments of Angola, Brazil, Burundi, Colombia, the Democratic Republic of the Congo, the Gambia, Honduras, India, Indonesia, Mexico, Myanmar, the Russian Federation, Senegal, Sierra Leone, Sri Lanka and Yugoslavia.

38. Grave human rights violations committed by such forces are particularly common in the context of internal disturbances and conflicts, but such incidents have also been reported in relation to conflicts with international dimensions. It is alarming that in some countries the unofficial use of irregular forces appears to have become part of government policies and counterinsurgency campaigns. That these groups are usually supported or directed by the military or civilian intelligence services further obscures their operations. In many cases the situation is further exacerbated by the fact that human rights violations perpetrated in this context are often ignored or actively covered up by the country's justice system. This may in some instances result in a deeply entrenched culture of impunity which further perpetuates human rights violations. Eventually, in such societies the authority of the law is seriously undermined and the respect for human life lost. During her field missions, the Special Rapporteur has had the opportunity personally to gather information and evidence of such atrocities committed in East Timor and Kosovo. A more detailed account of her findings on this issue may be found in her mission reports (A/54/660 and E/CN.4/2000/3/Add.2, respectively). A cause for particular alarm is the continuing violence in Colombia, which has resulted in a growing number of extrajudicial killings. A large number of civilians, including women and children, are among the victims of these atrocities. The information received suggests that many of these human rights violations have been perpetrated by paramilitary groups, some of which allegedly operate or have operated with the support of government forces.

39. The Special Rapporteur continues to receive reports of violence and extrajudicial killings attributed to armed opposition groups and other non-State actors. It should be noted that the Special Rapporteur's mandate only allows her to take action when the perpetrators are believed to have a direct or indirect link with the State. She nevertheless wishes to express her deep concern over these atrocities, which constitute serious violations of basic humanitarian and human rights principles. Governments engaged in operations against armed opposition groups must ensure that their forces act in accordance with international standards. In this context, she wishes to recall that the Human Rights Committee, in paragraph 1 of its general comment No. 6 on article 6 of the International Covenant on Civil and Political Rights, has reaffirmed that the right to life "is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation".

C. Killings committed in the name of passion or the name of honour

40. The Special Rapporteur is working closely with the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the independence of judges and lawyers to monitor incidents of "honour killings" where the State either approves of and supports these acts, or extends a form of impunity to the perpetrators by giving tacit or covert support to the practice. In the period under review the Special Rapporteur received from many countries reports of "honour killings", some of which have been committed with impunity. The Special Rapporteur is of the view that "honour killings" may constitute violations of the right to life if and when they are condoned or ignored by the authorities. She notes that some Governments have indicated their opposition to "honour killings" and publicly condemned this practice. However, she remains concerned that so far States appear to have taken little concrete action to bring an end to these killings. For a more detailed discussion of this issue, reference is made to the Special Rapporteur's reports to the Commission on

Human Rights (E/CN.4/1999/39, paras. 74-75; E/CN.4/2000/3, paras. 78-84).

D. Violations of the right to life of human rights defenders and journalists

41. The Special Rapporteur continues to receive reports of death threats or extrajudicial killings directed against human rights defenders, including human rights activists, lawyers, community workers, teachers, journalists and other persons engaged in activities aimed at promoting human rights or publicizing human rights violations. She has received a list of 133 documented cases of extrajudicial killings or death threats directed against human rights defenders reported to have occurred worldwide in 1999 alone. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of persons, institutions or organizations carrying out peaceful activities in defence of human rights and fundamental freedoms, requesting the Governments concerned to take the necessary measures to protect these persons' right to life. The Special Rapporteur took action on behalf of human rights defenders in the following countries: Argentina, Bolivia, Brazil, Burkina Faso, Chile, Colombia, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Pakistan, Peru, Sri Lanka and Yugoslavia. Many of these communications were sent jointly with the Special Rapporteur on the protection and promotion of freedom of opinion and expression.

42. Some of the Governments approached have replied to the Special Rapporteur's communications stating that they have taken special measures to provide protection to the persons concerned. While it is the responsibility of the State to ensure the security of persons under threat, it must be recognized that protection against physical attack is not enough. Such measures are merely a reaction and not a solution to the underlying problems that give rise to an atmosphere of violence and intimidation. Similarly, while political asylum or exile may provide temporary protection for persons in immediate danger, it is the obligation of the State to ensure that security threats are addressed, so that these persons can return home and continue their human rights work.

43. A cause for continuous concern is the situation in Colombia, where at least 59 human rights defenders were reportedly killed or received death threats in 1999. The Special Rapporteur has also received reports of threats, attacks and extrajudicial killings directed against human rights defenders in several African countries, notably the Democratic Republic of the Congo and Cameroon. A large number of human rights defenders were also among the victims of the systematic killings carried out by pro-integrationist militias and Indonesian government forces in East Timor. Lawyers and human rights activists were also often singled out during the conflict in Kosovo. The Special Rapporteur notes with concern that journalists have increasingly become targeted for extrajudicial killings, because of their work to expose human rights abuses or to uncover irregularities and corruption on the part of persons in positions of authority.

44. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly on 9 December 1998, is an important commitment on the part of the international community to respect and protect the rights of human rights defenders. At its fifty-sixth session, the Commission on Human Rights, in its resolution 2000/61, requested the Secretary-General to appoint a special representative to report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration. The Special Rapporteur welcomes this step. Many of the already existing thematic procedures are taking action and reporting on the situation of human rights defenders. She encourages the Special Representative of the Secretary-General to cooperate and coordinate her work with these mechanisms. The Special Rapporteur further believes that in order for this new mandate to be effective, the term "human rights defender" needs to be understood in a broad sense, so as to include not only human rights workers and activists, such as members of non-governmental organizations, but also other categories of persons engaged professionally or as private individuals in peaceful activities for the protection and promotion of the rule of law and the rights of the people.

E. Impunity

45. One of the root causes of the persistent occurrence of grave human rights violations, including extrajudicial, summary or arbitrary executions, is the

State's willingness to accept a flawed legal system, which is unable to bring the perpetrators of human rights violations to justice. In this regard, the Special Rapporteur wishes to recall that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions stipulate that States are obliged to investigate all human rights violations, particularly those affecting the physical integrity of the victim, to bring to justice those responsible for such abuses, to pay adequate compensation to the victims or their families and to prevent the recurrence of such violations. This obligation is reaffirmed in other important international human rights instruments.

46. The most systematic and alarming situations of impunity occur in countries where court decisions are flatly overruled and ignored by the executive authorities, or where the courts have become mere pawns in the hands of Governments which condone, support or commit human rights abuses as a matter of policy. In some cases impunity for human rights violations may also be the result of lack of governance, when a weak and under-resourced judiciary is incapable of investigating and prosecuting cases of human rights violations, including violations of the right to life. Institutional support and technical assistance may in part help to address this problem, and the Special Rapporteur notes with appreciation that a number of such programmes are being carried out under the auspices of the Office of the High Commissioner for Human Rights. She wishes to stress, however, that these efforts can only be successful if they are accompanied by strong mechanisms to ensure that the independence of the judiciary is protected and that public officials are held accountable for their actions and omissions. These initiatives must also be backed by genuine political will to bring these abuses to an end. In situations where a consistent pattern of impunity has emerged, the justice system should be thoroughly reviewed and, if found seriously wanting or to be defunct, replaced and reformed. As discussed earlier in this report, extrajudicial killings and acts of murder may sometimes also go unpunished because of the sex, religious belief, ethnicity or sexual orientation of the victim. Long-standing discrimination and prejudice against such groups are often used as a justification of these crimes.

47. Impunity for human rights abuses may in some instances also result from laws or other regulations explicitly exempting public officials or certain categories of State agents from accountability or prosecution. Such measures are often resorted to in countries facing internal unrest, and where the security forces are given wide-ranging powers in order to counter a real or perceived threat to national security. In cases where members of security forces are prosecuted, they are usually tried in military courts, which often fall short of international standards regarding the impartiality, independence and competence of the judiciary.

48. Situations of impunity can also arise as a result of amnesty laws, passed in the interest of national reconciliation when countries try to come to terms with human rights abuses of past regimes. The Special Rapporteur believes that there should and can be no impunity for serious human rights abuses, particularly violations of the right to life, regardless of the past or present status or position of the alleged perpetrator. At the same time, in order to be effective and meaningful in fostering accountability among State officials and rulers, measures taken to prosecute human rights offenders cannot be selective or used as an instrument of revenge, but must be part of broader policies aimed at promoting peace, social stability, justice and the rule of law. As a recognition of the State's responsibility for acts carried out by its personnel, Governments have an obligation to provide adequate compensation to victims and the families of victims of serious human rights violations, including extrajudicial executions. In this connection, the Special Rapporteur wishes to emphasize that granting compensation does not reduce the duty of the State to investigate and prosecute human rights violations.

49. The International Criminal Court, once it is established, has the potential to assume a leading role in the fight against impunity for serious and systematic human rights violations. The Court will have jurisdiction over serious crimes of international concern, including genocide, war crimes and crimes against humanity. The Statute of the Court, adopted in Rome on 17 July 1998, will enter into force after the deposit of the sixtieth instrument of ratification, acceptance, approval or accession. At the time of writing, 98 States had signed and 14 ratified the Rome Statute.

50. The inability or reluctance on the part of the authorities to bring an end to impunity for human rights offenders seriously undermines the rule of law, and also widens the gap between those close to the

power structures and others who are vulnerable to human rights abuses. The increasing difficulties in securing justice alienate the people from the State and may drive them to take the law into their own hands, resulting in a further erosion of the justice system and a vicious circle of violence and retaliation. If unaddressed, such situations may easily degenerate into a state of anarchy, where armed and militant groups can hold both the Government and the population hostage. Human rights protection and respect for the rule of law are central to lasting peace and stability. It is, therefore, crucial that conflict prevention strategies and post-conflict peace-building efforts include effective measures to end the culture of impunity.

51. During her field missions, the Special Rapporteur has also had the opportunity to study the problem of impunity for human rights offenders. While in East Timor she was deeply disturbed by the flagrant impunity with which government forces and armed pro-integrationist militias were allowed to commit large-scale and calculated extrajudicial killings. During her visit to the former Yugoslav Republic of Macedonia and Albania she heard shocking testimonies of atrocities attributed to Yugoslav government forces and State-sponsored paramilitary groups in Kosovo. In her report on her mission to Mexico, the Special Rapporteur noted that there was a particular reluctance among the competent Mexican authorities to make members of the armed forces accountable for extrajudicial killings and other grave human rights violations. Widespread impunity for extrajudicial killings is a cause for great alarm in Colombia, and the Special Rapporteur welcomes the Government's invitation to visit the country. This mission will enable her to acquaint herself with the situation at first hand, and to formulate recommendations in order to better protect the right to life and address the problem of impunity in Colombia.

VII. *Concluding remarks and* recommendations

52. The Special Rapporteur hopes that the present report will serve to illustrate the scope and seriousness of the problem of extrajudicial, summary or arbitrary executions worldwide, and that the recommendations presented below will inspire States to take joint and separate action to combat these atrocities. Declarations of commitment to the protection of human rights are only effective, and indeed meaningful, if they are backed by genuine political will and translated into concrete decisions and policies at the national level. In this connection, the Special Rapporteur notes with regret, and mounting frustration, that a large number of Governments continue to ignore her urgent appeals in individual cases and fail to respond to letters requesting information regarding alleged violations of the right to life.

53. The Special Rapporteur would like to take this opportunity to express her appreciation for the continuous support for her mandate by the Office of the High Commissioner for Human Rights. However, she remains concerned that the precarious funding situation of the United Nations human rights programmes may jeopardize the stable and uninterrupted support for her mandate.

54. The Special Rapporteur notes with regret that most of the recommendations presented in her earlier reports remain valid in the absence of concrete action to implement them on the part of Governments. Therefore, the following remarks should be read in conjunction with the conclusions and recommendations presented in her reports to the Commission on Human Rights (E/CN.4/1999/39, paras. 78-97; E/CN.4/2000/3, paras. 93-116).

55. The global situation in regard to the respect for the right to life is bleak. Extrajudicial, summary or arbitrary executions have by no means ceased or decreased. They occur in every region of the world. The Special Rapporteur also notes with growing concern that steps taken in reaction to ongoing abuses more often than not fail to curb violence and spare innocent civilians from suffering. It is therefore imperative for the international community to concentrate its efforts on effective prevention and to establish early-warning mechanisms with the capacity to identify signs of emerging crises. These efforts should be guided by the scale of the human rights violations taking place, and not be misguided by the silence of those who are being oppressed.

56. The Special Rapporteur is appalled at the situation in certain countries where violations of the right to life appear to have become an everyday occurrence. The Governments of such countries are either not prepared or lack the skills and capacity to put an end to these human rights violations. She further finds it unacceptable that some Governments insist on

cynically defending or ignoring extrajudicial killings committed by their security forces, especially when confronted with armed opposition groups.

57. During her field visits, the Special Rapporteur has observed some common patterns which are conducive to the recurrence of extrajudicial killings, thus endangering the lives of the civilian population. Persistent impunity, disrespect for the rule of law and weak judicial systems provide breeding grounds for violence. In this environment, militant elements who choose the path of violence often manage to mobilize support among disadvantaged segments of the population. There are indications that in some countries women are increasingly joining the ranks of armed opposition groups, because of the extreme social, economic and political discrimination they are exposed to. Governments should respond to the grievances and aspirations of their female citizens and devise policies aimed at the empowerment of women.

58. The Special Rapporteur is concerned over the growing pessimism among ordinary people living in countries where human rights violations occur regularly and with impunity. People with whom the Special Rapporteur spoke during her field mission often had little faith in peaceful political movements and their ability to change the situation. It was often pointed out to the Special Rapporteur that peaceful movements and their campaigns failed to attract the attention of national and international political actors, thus playing into the hands of the more militant movements. An arbitrary or inequitable distribution of economic resources and continuous discrimination on the basis of ethnicity, religion or other factors further polarize and embitter the people. In previously repressive States, the transition to democracy is also often precarious and fragile, as some groups or segments of the population may decide to destabilize the situation and express their grievances by violent means.

Recommendations

59. In countries recovering from conflict situations, the process of reconciliation must fully involve community leaders and people at the grass-roots level. The media should be used to mobilize support for efforts aimed at peace and reconciliation.

60. The international community faces a serious challenge in developing and establishing effective and credible mechanisms for early warning and conflict prevention. Concrete measures must be taken without delay in order to avoid past mistakes and prevent further human rights disasters from taking place.

61. An efficient and independent judiciary is a basic and crucial element of a functioning democracy. As pointed out above and in the Special Rapporteur's previous reports, some of the most deeply rooted human rights problems cannot be resolved unless the countries concerned enter upon a thorough review and reform of their legal and judicial systems. This need is particularly urgent in countries in transition to democracy.

62. Governments must make every possible effort to ensure that children are not used as pawns in armed conflict. Children should under no circumstances be targeted by government forces. The death of every child that dies as a result of State violence should be thoroughly investigated by an independent judicial forum, the perpetrators brought to justice and the results of the inquiries made public.

63. All countries that retain the death penalty are urged to consider imposing a moratorium on executions, with a view to completely abolishing the death penalty. Pending the imposition of a moratorium, States should take immediate measures to bring their domestic legislation into line with international standards pertaining to capital punishment. The Special Rapporteur calls on States to ensure that capital punishment is not imposed for offences committed by persons under the age of 18. She further urges States not to carry out death sentences on expectant or recent mothers, mentally handicapped persons and elderly people. She finally encourages States to provide her and other United Nations mechanisms with detailed and current information on the use of the death penalty, as this will enable her to form a deeper and more comprehensive understanding of the issues at hand.